

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>PC 04 018 B</b>	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. <b>PCT/EP2004/002507</b>	International filing date (day/month/year) <b>11.03.2004</b>	Priority date (day/month/year) <b>15.03.2003</b>
International Patent Classification (IPC) or national classification and IPC		
Applicant <b>NEOPERL GMBH</b>		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002507

Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-21 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. 1-35 \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/6-6/6 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002507

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	5, 6-8, 23, 30, 31	YES
	Claims	1-4, 9-22, 24-29, 32-35	NO
Inventive step (IS)	Claims	5, 7-8, 31	YES
	Claims	6, 23, 30	NO
Industrial applicability (IA)	Claims	1-35	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

## 1. Independent claim 1

1.1 D1 (US-A-4 117 856), which is considered to represent the prior art closest to the subject matter of claim 1, discloses (see the entire document) a fixture

- which is designed as a backflow preventer and is insertable in a gas or liquid line, said fixture having a housing (14, 16), in the interior of which at least one closing body (42) is movably arranged which seals a through aperture (22) or multiple through apertures (48) of inflow channels (see 30) when in the closed position, wherein
- the housing (14, 16) is formed of at least two housing parts (14, 16) and has inflow channels in at least one annular area which flow into a housing chamber and a housing parts seal (44) is provided between the opposing sides of two adjacent housing parts (14, 16) which is integrally connected to at least one annular membrane (42) which is movable inside the

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housing chamber by the conveying medium and forms the closing body.

1.2 The subject matter of claim 1 thus fails to meet the requirements for novelty (PCT Article 33(2)).

2. Independent claim 2

2.1 D1 (US-A-4 117 856), which is considered to represent the prior art closest to the subject matter of claim 1, discloses (see the entire document) a fixture

- which is designed as a flow regulator and is insertable in a gas or liquid line, said fixture having a housing (14, 16), in the interior of which at least one throttle or control body (42) is arranged which defines a control slot between itself and a housing wall which varies pressure-dependently (according to the position of the lip 42 relative to the wall 46), in particular according to claim 1 or claim 2, wherein
- the housing (14, 16) is formed of at least two housing parts (14, 16) and a housing parts seal (44) is provided between the opposing sides of two adjacent housing parts (14, 16) which is integrally connected to the at least one throttle or control body (42) supported in the interior of the housing.

2.2 The subject matter of claim 3 thus fails to meet

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the requirements for novelty (PCT Article 33(2)).

3. Dependent claims 1-4, 6, 9-30 and 32-35

Dependent claims 1-4, 6, 9-30 and 32-35 (see also the search report) relate to purely structural measures which belong to the prior art or are of the kind that a person skilled in the art routinely makes on the basis of familiar considerations (see search report). Dependent claims 1-4, 6, 9-30 and 32-35 therefore fail to meet the requirements of PCT Article 33(2) and (3).